

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 06-0377

IN THE MATTER OF RULES FOR)	ORDER
PUBLIC ACCESS TO COURT RECORDS)	

In November 2005, the Supreme Court's Commission on Technology established a task force to develop and to recommend to the Court comprehensive rules to govern electronic access to court records. The task force was instructed to develop their recommendations within the context of the Public's Right to Know and the Right of Individual Privacy, guaranteed, respectively, by Article II, Sections 9 and 10 of the Montana Constitution. The task force was co-chaired by Judy Meadows, State Law Librarian, and Karen Nelson, Director of Information Technology for this Court, and included representatives from the District Courts and Courts of Limited Jurisdiction, and the Clerks of Courts thereof; from the Clerk of the Supreme Court; from the media; from the State Bar of Montana; and from the Montana Advocacy Program.

Following a series of public meetings between December 2005 and March 2006, the task force drafted comprehensive rules modeled on national guidelines published in October 2002 by the National Center for State Courts and the Justice Management Institute. The rules which the task force drafted and recommended, however, were in some cases modified to comply with Article II, Sections 9

and 10 of the Montana Constitution as well as with Montana statutory law and jurisprudence. The task force also drafted a detailed commentary to each rule reflecting the rationale underlying the rule.

At its May 15, 2006 meeting, the Commission on Technology unanimously voted to recommend to this Court the proposed rules hereinafter referred to.

The Court expresses its appreciation and gratitude to the co-chairpersons and to the members of the task force for their exhaustive and diligent work on this matter and for their service to the courts and to the State of Montana.

Having now reviewed these rules and commentary, we determine that before taking further action, the rules and commentary should be submitted to the public for comment.

Therefore,

IT IS ORDERED that the rules referred to hereafter by hyperlink be submitted to the public for comment. All comments must be filed in writing with the Clerk of the Supreme Court, P.O. Box 203003, Helena, MT, 59620-3003, on or before 5:00 PM, August 23, 2006.

IT IS FURTHER ORDERED that this Order and these [rules, along with the commentary](#), be published on the Montana Courts website at <http://www.courts.mt.gov/supreme/proprules.asp> , and for the State Bar of Montana at, <http://www.montanabar.org/> . Persons unable to access these documents electronically may request a paper copy of the same through the State

Law Librarian, P.O. Box 203004, Helena, MT, 59620-3004 (406-444-1977) upon advance payment of reasonable photocopying and postage charges.

IT IS FURTHER ORDERED that notice of this Order be served by the Clerk of this Court either electronically or by mail on the following persons and organizations:

the Clerk of each District Court of the State of Montana, with the request that the Clerk serve each District Court Judge in that Clerk's respective county;

the Judge of the Workers' Compensation Court;

the Chief Judge of the Water Court;

the Supreme Court Administrator, who shall serve each of the Judges of the Courts of Limited Jurisdiction and each juvenile probation officer;

the Attorney General for the State of Montana, with the request that he serve each law enforcement agency or organization that he deems appropriate;

the chairperson of the Commission on Courts of Limited Jurisdiction;

the Presidents of the Montana Judges' Association and the Montana Magistrates' Association;

the Presidents of the Clerk of Court's Association for the Clerks of the District Courts and the Clerks of the Courts of Limited Jurisdiction;

the Directors of the following Departments, with the request that they serve the appropriate persons within their Departments: Administration; Auditor; Corrections; Fish, Wildlife and Parks; Justice; Livestock; Public Health and Human Services; Public Instruction; and Transportation;

the State Appellate Defender and Chief Public Defender;

the Chairperson of the Public Service Commission;

the Legislative Counsel;

the President of the University System; the Dean of the University of Montana School of Law; and the Commissioner of Higher Education, with the request that they serve the appropriate persons within their institutions;

the Executive Director of the State Bar of Montana, with the request that he serve appropriate persons and committees within that organization and that a copy of this Order be published in the next available issue of *The Montana Lawyer*;

task force member Ian Marquand, with the request that he serve appropriate persons, associations and organizations within the print and broadcast media and the Freedom of Information Hotline. It is the Court's hope that the print and broadcast media will give appropriate coverage to this matter and will publicize the hyperlinks where interested persons may review the rules and commentary; and

task force member Beth Brenneman on behalf of the Montana Advocacy Program.

Dated this 23rd day of May, 2006.

/S/ KARLA M. GRAY
/S/ JAMES C. NELSON
/S/ PATRICIA COTTER
/S/ JOHN WARNER
/S/ BRIAN MORRIS
/S/ JIM RICE